

2007 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-SB40)

Received: **06/28/2007**

Received By: **rnelson2**

Wanted: **Soon**

Identical to LRB:

For: **Legislative Fiscal Bureau 6-7814**

By/Representing: **Carmichael**

This file may be shown to any legislator: **NO**

Drafter: **rnelson2**

May Contact:

Addl. Drafters:

Subject: **Courts - garn/injunct**

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

LFB:.....Carmichael -

Topic:

Garnishment of minor's earnings

Instructions:

See Attached 07AB40

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rnelson2 06/28/2007	lkunkel 06/28/2007		_____			
/1			pgreensl 06/28/2007	_____	lparisi 06/28/2007		

FE Sent For:

<END>

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/?	rnelson2	1/mk 6/29	6/28 PS	6/28 PS 1/2			

FE Sent For:

<END>

RPP
ink

LFB:.....Carmichael – Garnishment of minor's earnings

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2007 SENATE BILL 40

1 At the locations indicated, amend the substitute amendment as follows:

2 (END)



2007 ASSEMBLY BILL 34

January 24, 2007 - Introduced by Representatives OWENS, HAHN, JESKEWITZ, MUSSER, TOWNSEND and VOS, cosponsored by Senators OLSEN, ROESSLER, SCHULTZ and GROTHMAN. Referred to Committee on Children and Family Law.

- 1 AN ACT *to amend* 812.30 (8), 812.35 (5), 812.35 (6), 812.40, 812.44 (3) (form),
2 812.44 (4) (form) and 812.44 (5) (form); and *to create* 812.30 (7m), 812.34 (2)
3 (b) 3. and 812.35 (7) of the statutes; **relating to:** garnishment of the income of
4 a minor.

Analysis by the Legislative Reference Bureau

Under current law, the court assigned to exercise jurisdiction under the Juvenile Justice Code (juvenile court) may order a juvenile who has committed an act resulting in damage to the property of another or in actual physical injury to another, excluding pain and suffering, and a parent who has custody of the juvenile to make reasonable restitution for that damage or injury. Current law also permits the juvenile court to order a juvenile who has committed a delinquent act or who has violated a civil law or ordinance and the parent of that juvenile to pay a forfeiture, plus certain costs and surcharges. If a juvenile or a parent with custody of the juvenile fails to pay restitution, costs, a forfeiture, or a surcharge as ordered, the juvenile court may order that the amount of the unpaid restitution, costs, forfeiture, or surcharge be entered and docketed as a judgment against the juvenile and parent.

Under current law, a person who has a civil judgment for a debt may bring an action in circuit court to garnish the earnings of the person who owes the debt. The creditor is required to comply with specified court procedures when bringing the action, including serving one earnings garnishment form upon the debtor and the other form upon the person who is the debtor's employer. Currently, the debtor may

ASSEMBLY BILL 34

claim an exemption from the garnishment or may assert a defense against the garnishment.

Under current law, 80 percent of the debtor's disposable earnings (earnings left after deducting social security, federal, and state taxes) are exempt from garnishment. In addition, if the debtor's household income is below the poverty level or if the debtor is receiving needs-based public assistance, all of the debtor's earnings are exempt from garnishment. Currently, "household income" for purposes of this exemption is defined to mean the disposable income of the debtor and the debtor's dependents during the month in which the garnishment is in effect, plus any unearned income received that month by the debtor and the debtor's dependents, minus any of the debtor's earnings assigned by a family court order. The family court may order the assignment of a person's earnings for the payment of child support, family support, or maintenance.

Under this bill, if a debtor is an unemancipated minor who owes juvenile—court ordered restitution, costs, a forfeiture, or a surcharge, "household income" of the debtor includes the monthly unearned and disposable earnings of the debtor, the debtor's parents, and the parents' dependents, minus any of the earnings of the debtor and parent that are assigned by a family court. The bill, however, exempts from garnishment all of an unemancipated minor's earnings if the judgment that the creditor is seeking to satisfy is not a judgment for unpaid restitution, costs, a forfeiture, or a surcharge entered by the juvenile court.

Under current law, an earnings garnishment lasts for 13 weeks or until the debt is collected through the garnishment, whichever is less, except that for public employees, the garnishment continues until the debt is paid in full. This bill provides that the garnishment of a minor debtor who is not emancipated continues until the debt is paid in full.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Page 1530, line 20 after that line insert:

1 **SECTION 1.** 812.30 (7m) of the statutes is created to read:

2 812.30 **(7m)** "Emancipated minor" has the meaning given in s. 48.375 (2) (e).

3 **SECTION 2.** 812.30 (8) of the statutes is amended to read:

4 812.30 **(8)** "Household income" means the disposable earnings of the debtor

5 and dependents during any month in which the garnishment is in effect, plus

6 unearned income received by the debtor and dependents in that month, less any of

7 the debtor's earnings assigned by court order under ch. 767. If the debtor is a minor,

8 other than an emancipated minor, "household income" means the disposable

ASSEMBLY BILL 34

1 earnings of the debtor, of the parent that the debtor resides with for at least 50
2 percent of the month, and of the parent's dependents during any month in which the
3 garnishment is in effect, plus unearned income received by the debtor, the parent,
4 and the parent's dependents in that month, less any of the debtor's and the parent's
5 earnings assigned by court order under ch. 767.

6 ^{3759 f-0}
~~SECTION 3.~~ 812.34 (2) (b) 3. of the statutes is created to read:

7 812.34 (2) (b) 3. The debtor is a minor, other than an emancipated minor, and
8 the judgment that the creditor is seeking to satisfy is not a judgment for unpaid
9 restitution, costs, a forfeiture, or a surcharge entered under s. 895.035 (2m) (a) or (b)
10 by the court assigned to exercise jurisdiction under chs. 48 and 938.

11 ^{3759 h-0}
~~SECTION 4.~~ 812.35 (5) of the statutes is amended to read:

12 812.35 (5) Upon Except as provided in sub. (7), after being served, the
13 garnishee shall determine whether the garnishee may become obligated to the
14 debtor for earnings earned within pay periods beginning within 13 weeks after the
15 date of service. If it is unlikely that the garnishee will become so obligated, the
16 garnishee shall send a statement of that fact to the creditor by the end of the 7th
17 business day after receiving the earnings garnishment form under sub. (3). The
18 creditor shall send a copy of this statement to the court within 7 business days after
19 receipt of the statement.

20 ^{3759 j-0}
~~SECTION 5.~~ 812.35 (6) of the statutes is amended to read:

21 812.35 (6) If Except as provided in sub. (7), if the garnishee may become
22 obligated to the debtor for earnings earned within pay periods beginning within 13
23 weeks after the date of service, but one or more earnings garnishments against the
24 debtor have already been served on the garnishee and not terminated, the garnishee
25 shall retain the earnings garnishment form and place the garnishment into effect the

ASSEMBLY BILL 34**SECTION 5**

1 pay period after the last of any prior earnings garnishments terminates. The
2 garnishee shall notify the debtor of the amount of the garnishment and shall notify
3 the creditor of the amount owed on the pending garnishments by the end of the 7th
4 business day after receipt of the garnishment form under sub. (3). If, before the
5 earnings garnishment takes effect, the garnishee determines that it is unlikely that
6 the garnishee will continue to be obligated to the debtor for earnings, the garnishee
7 shall notify the creditor and court under sub. (5) within 7 business days after making
8 that determination.

3759 K-P
9 SECTION 6. 812.35 (7) of the statutes is created to read:

10 812.35 (7) (a) If the debtor is a minor, other than an emancipated minor, the
11 garnishment shall continue until the amount that the creditor is seeking in the
12 garnishment is paid in full. The garnishee shall determine whether the garnishee
13 may become obligated to the debtor for earnings earned after the date of service. If
14 it is unlikely that the garnishee will become so obligated, the garnishee shall send
15 a statement of that fact to the creditor by the end of the 7th business day after
16 receiving the earnings garnishment form under sub. (3). The creditor shall send a
17 copy of this statement to the court within 7 business days after receipt of the
18 statement.

19 (b) If the garnishee may become obligated to the debtor for earnings earned
20 within pay periods beginning after the date of service, but one or more earnings
21 garnishments against the debtor have already been served on the garnishee and not
22 terminated, the garnishee shall retain the earnings garnishment form and place the
23 garnishment into effect the pay period after the last of any prior earnings
24 garnishments terminates. The garnishee shall notify the debtor of the amount of the
25 garnishment and shall notify the creditor of the amount owed on the pending

ASSEMBLY BILL 34

1 garnishments by the end of the 7th business day after receipt of the garnishment
2 form under sub. (3). If before the earnings garnishment takes effect the garnishee
3 determines that it is unlikely that the garnishee will continue to be obligated to the
4 debtor for earnings, the garnishee shall notify the creditor and court under par. (a)
5 within 7 business days after making that determination.

6 ^{3759 m -10} SECTION 7. 812.40 of the statutes is amended to read:

7 **812.40 Stipulated extension.** At any time while an earnings garnishment
8 is in effect, the debtor and creditor, if the debtor is an adult or an emancipated minor,
9 may stipulate in writing to an extension of the earnings garnishment for additional
10 pay periods. The extension may commence on the first day after the earnings
11 garnishment ends and shall end within 13 weeks after the last day of the last pay
12 period affected by the earnings garnishment. The garnishee shall be bound by the
13 extension if a copy of the stipulation is delivered or mailed to the garnishee, together
14 with an additional garnishee fee under s. 812.33, before the last day of the last pay
15 period affected by the earnings garnishment or any prior stipulated extension of the
16 earnings garnishment. A stipulated extension is void and the garnishee fee shall be
17 refunded if, prior to the last day of the last pay period affected by the earnings
18 garnishment, the garnishee is served under s. 812.35 (3) by a creditor seeking to
19 satisfy a different judgment against the debtor.

20 ^{3759 g -10} SECTION 8. 812.44 (3) (form) of the statutes is amended to read:

21 812.44 (3) (form)

22 STATE OF WISCONSIN

23 CIRCUIT COURT:.... County

ASSEMBLY BILL 34

SECTION 8

A.B., Creditor

vs.

File or Reference Number...

C.D., Debtor

EARNINGS

and

GARNISHMENT

E.F., Garnishee

THE STATE OF WISCONSIN, To the garnishee:

The creditor has been awarded a court judgment that has not been paid. As a result, the creditor claims that a total of \$.... is owed by the debtor, as follows:

A. Unpaid balance on judgment \$....

B. Unpaid postjudgment interest \$....

C. Costs of this earnings garnishment

(estimated) \$....

TOTAL \$....

The creditor believes that you will owe the debtor for earnings within the next 13 weeks, or if the debtor is an unemancipated minor, within any time. If the \$15 fee is tendered with these papers, you are directed by the court to do the following:

DETERMINE WHETHER YOU WILL

OWE THE DEBTOR EARNINGS

1. Determine if you are likely to owe the debtor for earnings in pay periods beginning within the next 13 weeks, or if the debtor is an unemancipated minor, within any time.

2. If you are not likely to owe the debtor for earnings in pay periods beginning within the next 13 weeks, or if the debtor is an unemancipated minor, within any

ASSEMBLY BILL 34

1 time, send a statement stating that fact to the creditor by the end of the 7th business
2 day after receiving the earnings garnishment forms.

IF THE DEBTOR SENDS YOU AN ANSWER

3
4 3. Whenever you receive a debtor's answer form from the debtor, mail a copy
5 of the answer form to the creditor by the end of the 3rd business day after receipt of
6 that form. Include the date you received the answer form on the copy sent to the
7 creditor.

8 4. If the debtor's answer form claims a complete exemption or defense, do not
9 withhold or pay to the creditor any part of the debtor's earnings under this
10 garnishment unless you receive an order of the court directing you to do so.

MULTIPLE EARNINGS GARNISHMENTS

11
12 5. If the debtor's earnings are already being garnisheed when you receive this
13 earnings garnishment, place this earnings garnishment into effect the pay period
14 after the last of any prior earnings garnishments terminates. Notify the debtor of
15 the amount of the garnishment and notify the creditor of the amount owed on the
16 pending garnishments by the end of the 7th business day after you receive these
17 forms. If there are no prior pending earnings garnishments against the debtor's
18 earnings, place this earnings garnishment into effect the pay period after you receive
19 it.

EARNINGS GARNISHMENTS LAST 13 WEEKS,**EXCEPT FOR PUBLIC EMPLOYEES**

20
21
22 6. The garnishment of the earnings of employees of the state of Wisconsin and
23 its political subdivisions and of unemancipated minors remain in effect until the
24 judgment is satisfied. The garnishment of earnings of other employees will affect the
25 debtor's earnings for all pay periods beginning within 13 weeks after you receive it,

ASSEMBLY BILL 34**SECTION 8**

1 unless the debtor's earnings are already being garnisheed. If this earnings
2 garnishment is delayed under paragraph 5, above, it will affect the debtor's earnings
3 for all pay periods beginning within 13 weeks after the first day of the pay period that
4 you put this earnings garnishment into effect. If the amount claimed by the creditor
5 is fully paid before the end of the 13 weeks, this earnings garnishment will terminate
6 at that point.

PAYING THE CREDITOR

7
8 7. Between 5 and 10 business days after each payday of a pay period affected
9 by this earnings garnishment, pay the creditor 20% of the debtor's disposable
10 earnings for that pay period. Payment is complete upon mailing.

EFFECT OF COURT-ORDERED**ASSIGNMENTS FOR SUPPORT**

11
12
13 8. If the debtor has assigned his or her earnings for support by court order, those
14 support payments take priority over this earnings garnishment. If 25% or more of
15 the debtor's disposable earnings is assigned for support by court order, do not pay any
16 part of the debtor's earnings to the creditor. Instead, send the creditor a statement
17 of that fact by the end of the 7th business day after you receive these forms. If less
18 than 25% of the debtor's earnings is assigned for support by court order, the amount
19 the creditor must be paid is reduced so that the total of earnings assigned and
20 garnisheed does not exceed 25% of the debtor's disposable earnings.

EXTENSIONS

21
22 9. The debtor and creditor may agree in writing to extend this earnings
23 garnishment for additional pay periods beginning within 13 weeks after this
24 earnings garnishment would otherwise terminate if the debtor is an adult or an
25 emancipated minor. If you receive a written extension stipulation, and an additional

ASSEMBLY BILL 34

1 garnishee fee for each extension, you must honor it unless a different garnishment
2 against this debtor's earnings is served upon you before the extension takes effect.
3 In that case, the extension is void and you must return the extension fee to the party
4 who paid it to you.

5 **SECTION 9.** 812.44 (4) (form) of the statutes is amended to read:

6 812.44 (4) (form)

7 STATE OF WISCONSIN

8 CIRCUIT COURT:.... County

9
10 A.B., Creditor

11 vs.

File or Reference Number....

12 C.D., Debtor

EXEMPTION NOTICE

13 and

EARNINGS GARNISHMENT

14 E.F., Garnishee

15
16 To the debtor:

17 The creditor was awarded a judgment against you or your spouse by.... (County
18 Circuit or Federal District) Court on the.... day of...., (year) That judgment not
19 having been fully paid, the creditor has now filed a garnishment proceeding against
20 your earnings from the garnishee. This means that the creditor is seeking to take
21 some of your earnings to satisfy part or all of the judgment against you or your
22 spouse.

23 The total amount of the creditor's claim is as follows:

24 Unpaid balance on judgment \$....

25 Unpaid postjudgment interest \$....

ASSEMBLY BILL 34**SECTION 9**

Costs:

a. Garnishment filing fee	\$....
b. Garnishee fee	\$....
c. Service of process (estimate)	\$....
TOTAL	\$....

By law, you are entitled to an exemption of not less than 80% of your disposable earnings. Your "disposable earnings" are those remaining after social security and federal and state income taxes are withheld.

Your earnings are completely exempt from garnishment if:

1. Your household income is below the federal poverty level. See the enclosed schedules and worksheet to determine if you qualify for this exemption.

2. You receive aid to families with dependent children, relief funded by a relief block grant under ch. 49, relief provided by counties under section s. 59.53 (21) of the Wisconsin Statutes, medical assistance, supplemental security income, food stamps, or veterans benefits based on need under 38 USC 501 to 562 or section 45.351 (1) of the Wisconsin Statutes, or have received these benefits within the past 6 months.

3. At least 25% of your disposable earnings are assigned by court order for support.

4. You are a minor, other than an emancipated minor, and the judgment that the creditor is seeking to satisfy is not a judgment for unpaid restitution, costs, a forfeiture, or a surcharge entered under section 895.035 (2m) (a) or (b) of the Wisconsin Statutes by the court assigned to exercise jurisdiction under chapters 48 and 938 of the Wisconsin Statutes.

ASSEMBLY BILL 34

If the garnishment of 20% of your disposable income would result in the income of your household being below the poverty line, the garnishment is limited to the amount of your household's income in excess of the poverty line.

If you qualify for a complete exemption or for a limit on the amount of the garnishment to the amount that your household's income exceeds the poverty line, you must give or mail a copy of the enclosed debtor's answer form to the garnishee in order to receive that increased exemption.

If your circumstances change while the garnishment is in effect, you may file a new answer at any time.

If you do not qualify for a complete exemption, but you will not be able to acquire the necessities of life for yourself and your dependents if your earnings are reduced by this earnings garnishment, you may ask the court in which this earnings garnishment was filed to increase your exemption or grant you other relief.

IF YOU NEED ASSISTANCE

CONSULT AN ATTORNEY

If you have earnings that are being garnisheed that are exempt or subject to a defense, the sooner you file your answer or seek relief from the court, the sooner such relief can be provided. This If you are an adult or an emancipated minor, this earnings garnishment affects your earnings in pay periods beginning within 13 weeks after it was served on the garnishee. You may agree in writing with the creditor to extend it for additional 13-week periods until the debt is paid. If you are an unemancipated minor, this earnings garnishment affects your earnings after it was served on the garnishee and until the amount that the creditor is seeking in the garnishment is paid in full.

PENALTIES

ASSEMBLY BILL 34

SECTION 9

1 If you wrongly claim an exemption or defense in bad faith, or if the creditor
2 wrongly objects to your claim in bad faith, the court may order the person who acted
3 in bad faith to pay court costs, actual damages and reasonable attorney fees.

4 ^{3759.5 B}SECTION 10. 812.44 (5) (form) of the statutes is amended to read:

5 812.44 (5) (form)

6 STATE OF WISCONSIN

7 CIRCUIT COURT:.... County

8
9 A.B., Creditor

10 vs.

File or Reference Number....

11 C.D., Debtor

EARNINGS GARNISHMENT

12 and

DEBTOR'S ANSWER

13 E.F., Garnishee

14
15 To the garnishee:

16 My earnings are COMPLETELY EXEMPT from earnings garnishment because:

17 ... 1. The judgment has been paid or is void.

18 ... 2. ~~(5) (form) paragraph 2.~~ I receive, am eligible for, or have within 6 months
19 received, aid to families with dependent children, relief funded by a relief block grant
20 under ch. 49, relief provided by counties under section 59.53 (21) of the Wisconsin
21 Statutes, medical assistance, supplemental security income, food stamps, or
22 veterans benefits based on need under 38 USC 501 to 562 or section 45.351 (1) of the
23 Wisconsin Statutes.

24 ... 3. At least 25% of my disposable earnings are assigned for support by court order.

ASSEMBLY BILL 34

1 ... 4. My household income is less than the poverty line, or this garnishment would
2 cause that to happen.

3 ... 4m. I am not an emancipated minor and the judgment that the creditor is seeking
4 to satisfy is not a judgment for unpaid restitution, costs, a forfeiture, or a surcharge
5 entered under section 895.035 (2m) (a) or (b) of the Wisconsin Statutes by the court
6 assigned to exercise jurisdiction under chapters 48 and 938 of the Wisconsin
7 Statutes.

8 ... 5. I have another defense to this earnings garnishment (explain briefly).

9
10

11 I understand that if I claim a complete exemption or defense in bad faith, I may
12 be held liable to the creditor for actual damages, costs and reasonable attorney fees.

13 DATE

Signature of Debtor

14 Address

15 Telephone Number

16 Date Received by Garnishee

17 (END)

LC



State of Wisconsin
2007 - 2008 LEGISLATURE

LRBb0848/1
RPN:wlj&lmk:pg

LFB:.....Carmichael - Garnishment of minor's earnings

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2007 SENATE BILL 40

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 1530, line 2: after that line insert:

3 **"SECTION 3759b.** 812.30 (7m) of the statutes is created to read:

4 812.30 (7m) "Emancipated minor" has the meaning given in s. 48.375 (2) (e).

5 **SECTION 3759c.** 812.30 (8) of the statutes is amended to read:

6 812.30 (8) "Household income" means the disposable earnings of the debtor

7 and dependents during any month in which the garnishment is in effect, plus

8 unearned income received by the debtor and dependents in that month, less any of

9 the debtor's earnings assigned by court order under ch. 767. If the debtor is a minor,

10 other than an emancipated minor, "household income" means the disposable

1 earnings of the debtor, of the parent that the debtor resides with for at least 50
2 percent of the month, and of the parent's dependents during any month in which the
3 garnishment is in effect, plus unearned income received by the debtor, the parent,
4 and the parent's dependents in that month, less any of the debtor's and the parent's
5 earnings assigned by court order under ch. 767.

6 **SECTION 3759f.** 812.34 (2) (b) 3. of the statutes is created to read:

7 812.34 (2) (b) 3. The debtor is a minor, other than an emancipated minor, and
8 the judgment that the creditor is seeking to satisfy is not a judgment for unpaid
9 restitution, costs, a forfeiture, or a surcharge entered under s. 895.035 (2m) (a) or (b)
10 by the court assigned to exercise jurisdiction under chs. 48 and 938.

11 **SECTION 3759h.** 812.35 (5) of the statutes is amended to read:

12 812.35 (5) Upon Except as provided in sub. (7), after being served, the
13 garnishee shall determine whether the garnishee may become obligated to the
14 debtor for earnings earned within pay periods beginning within 13 weeks after the
15 date of service. If it is unlikely that the garnishee will become so obligated, the
16 garnishee shall send a statement of that fact to the creditor by the end of the 7th
17 business day after receiving the earnings garnishment form under sub. (3). The
18 creditor shall send a copy of this statement to the court within 7 business days after
19 receipt of the statement.

20 **SECTION 3759j.** 812.35 (6) of the statutes is amended to read:

21 812.35 (6) If Except as provided in sub. (7), if the garnishee may become
22 obligated to the debtor for earnings earned within pay periods beginning within 13
23 weeks after the date of service, but one or more earnings garnishments against the
24 debtor have already been served on the garnishee and not terminated, the garnishee
25 shall retain the earnings garnishment form and place the garnishment into effect the

1 pay period after the last of any prior earnings garnishments terminates. The
2 garnishee shall notify the debtor of the amount of the garnishment and shall notify
3 the creditor of the amount owed on the pending garnishments by the end of the 7th
4 business day after receipt of the garnishment form under sub. (3). If, before the
5 earnings garnishment takes effect, the garnishee determines that it is unlikely that
6 the garnishee will continue to be obligated to the debtor for earnings, the garnishee
7 shall notify the creditor and court under sub. (5) within 7 business days after making
8 that determination.

9 **SECTION 3759k.** 812.35 (7) of the statutes is created to read:

10 812.35 (7) (a) If the debtor is a minor, other than an emancipated minor, the
11 garnishment shall continue until the amount that the creditor is seeking in the
12 garnishment is paid in full. The garnishee shall determine whether the garnishee
13 may become obligated to the debtor for earnings earned after the date of service. If
14 it is unlikely that the garnishee will become so obligated, the garnishee shall send
15 a statement of that fact to the creditor by the end of the 7th business day after
16 receiving the earnings garnishment form under sub. (3). The creditor shall send a
17 copy of this statement to the court within 7 business days after receipt of the
18 statement.

19 (b) If the garnishee may become obligated to the debtor for earnings earned
20 within pay periods beginning after the date of service, but one or more earnings
21 garnishments against the debtor have already been served on the garnishee and not
22 terminated, the garnishee shall retain the earnings garnishment form and place the
23 garnishment into effect the pay period after the last of any prior earnings
24 garnishments terminates. The garnishee shall notify the debtor of the amount of the
25 garnishment and shall notify the creditor of the amount owed on the pending

1 garnishments by the end of the 7th business day after receipt of the garnishment
2 form under sub. (3). If before the earnings garnishment takes effect the garnishee
3 determines that it is unlikely that the garnishee will continue to be obligated to the
4 debtor for earnings, the garnishee shall notify the creditor and court under par. (a)
5 within 7 business days after making that determination.

6 **SECTION 3759m.** 812.40 of the statutes is amended to read:

7 **812.40 Stipulated extension.** At any time while an earnings garnishment
8 is in effect, the debtor and creditor, if the debtor is an adult or an emancipated minor,
9 may stipulate in writing to an extension of the earnings garnishment for additional
10 pay periods. The extension may commence on the first day after the earnings
11 garnishment ends and shall end within 13 weeks after the last day of the last pay
12 period affected by the earnings garnishment. The garnishee shall be bound by the
13 extension if a copy of the stipulation is delivered or mailed to the garnishee, together
14 with an additional garnishee fee under s. 812.33, before the last day of the last pay
15 period affected by the earnings garnishment or any prior stipulated extension of the
16 earnings garnishment. A stipulated extension is void and the garnishee fee shall be
17 refunded if, prior to the last day of the last pay period affected by the earnings
18 garnishment, the garnishee is served under s. 812.35 (3) by a creditor seeking to
19 satisfy a different judgment against the debtor.

20 **SECTION 3759q.** 812.44 (3) (form) of the statutes is amended to read:

21 812.44 (3) (form)

22 STATE OF WISCONSIN

23 CIRCUIT COURT:.... County

A.B., Creditor

vs.

File or Reference Number....

C.D., Debtor

EARNINGS

and

GARNISHMENT

E.F., Garnishee

THE STATE OF WISCONSIN, To the garnishee:

The creditor has been awarded a court judgment that has not been paid. As a result, the creditor claims that a total of \$.... is owed by the debtor, as follows:

A. Unpaid balance on judgment \$....

B. Unpaid postjudgment interest \$....

C. Costs of this earnings garnishment

(estimated) \$....

TOTAL \$....

The creditor believes that you will owe the debtor for earnings within the next 13 weeks, or if the debtor is an unemancipated minor, within any time. If the \$15 fee is tendered with these papers, you are directed by the court to do the following:

DETERMINE WHETHER YOU WILL

OWE THE DEBTOR EARNINGS

1. Determine if you are likely to owe the debtor for earnings in pay periods beginning within the next 13 weeks, or if the debtor is an unemancipated minor, within any time.

2. If you are not likely to owe the debtor for earnings in pay periods beginning within the next 13 weeks, or if the debtor is an unemancipated minor, within any

1 time, send a statement stating that fact to the creditor by the end of the 7th business
2 day after receiving the earnings garnishment forms.

3 IF THE DEBTOR SENDS YOU AN ANSWER

4 3. Whenever you receive a debtor's answer form from the debtor, mail a copy
5 of the answer form to the creditor by the end of the 3rd business day after receipt of
6 that form. Include the date you received the answer form on the copy sent to the
7 creditor.

8 4. If the debtor's answer form claims a complete exemption or defense, do not
9 withhold or pay to the creditor any part of the debtor's earnings under this
10 garnishment unless you receive an order of the court directing you to do so.

11 MULTIPLE EARNINGS GARNISHMENTS

12 5. If the debtor's earnings are already being garnisheed when you receive this
13 earnings garnishment, place this earnings garnishment into effect the pay period
14 after the last of any prior earnings garnishments terminates. Notify the debtor of
15 the amount of the garnishment and notify the creditor of the amount owed on the
16 pending garnishments by the end of the 7th business day after you receive these
17 forms. If there are no prior pending earnings garnishments against the debtor's
18 earnings, place this earnings garnishment into effect the pay period after you receive
19 it.

20 EARNINGS GARNISHMENTS LAST 13 WEEKS,

21 EXCEPT FOR PUBLIC EMPLOYEES

22 6. The garnishment of the earnings of employees of the state of Wisconsin and
23 its political subdivisions and of unemancipated minors remain in effect until the
24 judgment is satisfied. The garnishment of earnings of other employees will affect the
25 debtor's earnings for all pay periods beginning within 13 weeks after you receive it,

1 unless the debtor's earnings are already being garnisheed. If this earnings
2 garnishment is delayed under paragraph 5, above, it will affect the debtor's earnings
3 for all pay periods beginning within 13 weeks after the first day of the pay period that
4 you put this earnings garnishment into effect. If the amount claimed by the creditor
5 is fully paid before the end of the 13 weeks, this earnings garnishment will terminate
6 at that point.

7 PAYING THE CREDITOR

8 7. Between 5 and 10 business days after each payday of a pay period affected
9 by this earnings garnishment, pay the creditor 20% of the debtor's disposable
10 earnings for that pay period. Payment is complete upon mailing.

11 EFFECT OF COURT-ORDERED

12 ASSIGNMENTS FOR SUPPORT

13 8. If the debtor has assigned his or her earnings for support by court order, those
14 support payments take priority over this earnings garnishment. If 25% or more of
15 the debtor's disposable earnings is assigned for support by court order, do not pay any
16 part of the debtor's earnings to the creditor. Instead, send the creditor a statement
17 of that fact by the end of the 7th business day after you receive these forms. If less
18 than 25% of the debtor's earnings is assigned for support by court order, the amount
19 the creditor must be paid is reduced so that the total of earnings assigned and
20 garnisheed does not exceed 25% of the debtor's disposable earnings.

21 EXTENSIONS

22 9. The debtor and creditor may agree in writing to extend this earnings
23 garnishment for additional pay periods beginning within 13 weeks after this
24 earnings garnishment would otherwise terminate if the debtor is an adult or an
25 emancipated minor. If you receive a written extension stipulation, and an additional

garnishee fee for each extension, you must honor it unless a different garnishment against this debtor's earnings is served upon you before the extension takes effect. In that case, the extension is void and you must return the extension fee to the party who paid it to you.

SECTION 3759r. 812.44 (4) (form) of the statutes is amended to read:

812.44 (4) (form)

STATE OF WISCONSIN

CIRCUIT COURT:.... County

A.B., Creditor

vs.

File or Reference Number....

C.D., Debtor

EXEMPTION NOTICE

and

EARNINGS GARNISHMENT

E.F., Garnishee

To the debtor:

The creditor was awarded a judgment against you or your spouse by... (County Circuit or Federal District) Court on the.... day of..., (year) That judgment not having been fully paid, the creditor has now filed a garnishment proceeding against your earnings from the garnishee. This means that the creditor is seeking to take some of your earnings to satisfy part or all of the judgment against you or your spouse.

The total amount of the creditor's claim is as follows:

Unpaid balance on judgment	\$....
Unpaid postjudgment interest	\$....

1 Costs:

2	a. Garnishment filing fee	\$....
3	b. Garnishee fee	\$....
4	c. Service of process (estimate)	\$....
5	TOTAL	\$....

6 By law, you are entitled to an exemption of not less than 80% of your disposable
7 earnings. Your "disposable earnings" are those remaining after social security and
8 federal and state income taxes are withheld.

9 Your earnings are completely exempt from garnishment if:

10 1. Your household income is below the federal poverty level. See the enclosed
11 schedules and worksheet to determine if you qualify for this exemption.

12 2. You receive aid to families with dependent children, relief funded by a relief
13 block grant under ch. 49, relief provided by counties under section s. 59.53 (21) of the
14 Wisconsin Statutes, medical assistance, supplemental security income, food stamps,
15 or veterans benefits based on need under 38 USC 501 to 562 or section 45.351 (1) of
16 the Wisconsin Statutes, or have received these benefits within the past 6 months.

17 3. At least 25% of your disposable earnings are assigned by court order for
18 support.

19 4. You are a minor, other than an emancipated minor, and the judgment that
20 the creditor is seeking to satisfy is not a judgment for unpaid restitution, costs, a
21 forfeiture, or a surcharge entered under section 895.035 (2m) (a) or (b) of the
22 Wisconsin Statutes by the court assigned to exercise jurisdiction under chapters 48
23 and 938 of the Wisconsin Statutes.

1 If the garnishment of 20% of your disposable income would result in the income
2 of your household being below the poverty line, the garnishment is limited to the
3 amount of your household's income in excess of the poverty line.

4 If you qualify for a complete exemption or for a limit on the amount of the
5 garnishment to the amount that your household's income exceeds the poverty line,
6 you must give or mail a copy of the enclosed debtor's answer form to the garnishee
7 in order to receive that increased exemption.

8 If your circumstances change while the garnishment is in effect, you may file
9 a new answer at any time.

10 If you do not qualify for a complete exemption, but you will not be able to acquire
11 the necessities of life for yourself and your dependents if your earnings are reduced
12 by this earnings garnishment, you may ask the court in which this earnings
13 garnishment was filed to increase your exemption or grant you other relief.

14 IF YOU NEED ASSISTANCE

15 CONSULT AN ATTORNEY

16 If you have earnings that are being garnisheed that are exempt or subject to a
17 defense, the sooner you file your answer or seek relief from the court, the sooner such
18 relief can be provided. This If you are an adult or an emancipated minor, this
19 earnings garnishment affects your earnings in pay periods beginning within 13
20 weeks after it was served on the garnishee. You may agree in writing with the
21 creditor to extend it for additional 13-week periods until the debt is paid. If you are
22 an unemancipated minor, this earnings garnishment affects your earnings after it
23 was served on the garnishee and until the amount that the creditor is seeking in the
24 garnishment is paid in full.

25 PENALTIES

1 If you wrongly claim an exemption or defense in bad faith, or if the creditor
2 wrongly objects to your claim in bad faith, the court may order the person who acted
3 in bad faith to pay court costs, actual damages and reasonable attorney fees.

4 **SECTION 3759s.** 812.44 (5) (form) of the statutes is amended to read:

5 812.44 (5) (form)

6 STATE OF WISCONSIN

7 CIRCUIT COURT:.... County

8
9 A.B., Creditor

10 vs.

File or Reference Number....

11 C.D., Debtor

EARNINGS GARNISHMENT

12 and

DEBTOR'S ANSWER

13 E.F., Garnishee

14
15 To the garnishee:

16 My earnings are COMPLETELY EXEMPT from earnings garnishment because:

17 ... 1. The judgment has been paid or is void.

18 ... 2. ~~(5) (form) paragraph 2.~~ I receive, am eligible for, or have within 6 months
19 received, aid to families with dependent children, relief funded by a relief block grant
20 under ch. 49, relief provided by counties under section 59.53 (21) of the Wisconsin
21 Statutes, medical assistance, supplemental security income, food stamps, or
22 veterans benefits based on need under 38 USC 501 to 562 or section 45.351 (1) of the
23 Wisconsin Statutes.

24 ... 3. At least 25% of my disposable earnings are assigned for support by court order.

1 ... 4. My household income is less than the poverty line, or this garnishment would
2 cause that to happen.

3 ... 4m. I am not an emancipated minor and the judgment that the creditor is seeking
4 to satisfy is not a judgment for unpaid restitution, costs, a forfeiture, or a surcharge
5 entered under section 895.035 (2m) (a) or (b) of the Wisconsin Statutes by the court
6 assigned to exercise jurisdiction under chapters 48 and 938 of the Wisconsin
7 Statutes.

8 ... 5. I have another defense to this earnings garnishment (explain briefly).

9
10

11 I understand that if I claim a complete exemption or defense in bad faith, I may
12 be held liable to the creditor for actual damages, costs and reasonable attorney fees.

13 DATE

Signature of Debtor

14 Address

15 Telephone Number

16 Date Received by Garnishee".

17 (END)